IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No 26 of 2000

For Approval and Signature: sd/-

Hon'ble MR.JUSTICE B.J.SHETHNA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

KANTIBHAI JOITARAM PATEL

Versus

SUNDARAM FINANCE LTD.

Appearance:

1. Appeal from Order No. 26 of 2000

MR KR BRAHMBHATT for Petitioner No. 1

MR BR GUPTA FOR RESPONDENT NO.1

DS AFF.NOT FILED (N) for Respondents No. 1-2

CORAM : MR.JUSTICE B.J.SHETHNA

Date of decision: 06/11/2001

ORAL JUDGEMENT

1. Against the impugned order dated 16.12.1999

passed by the learned Judge, City Civil Court, Ahmedabad, below Ex.1 in Civil Misc. Application No.807 of 1999 pending before the City Civil Court, Ahmedabad, u/s.9 of the Arbitration Act, the appellant original respondent No.1 has filed this Appeal.

2. It is stated at the Bar that the appellant had already deposited the principal amount before the trial Court. Therefore, the question remains regarding the interest on the loan amount. The impugned order was passed behind the back of the appellant - respondent No.1. The fact that the appellant has now deposited the principal amount before the Court, the aforesaid impugned order is required to be quashed and set aside more particularly it was passed behind the back of the appellant - respondent No.1.

3. Accordingly, this Appeal is allowed. The impugned order dated 16.12.1999 passed below Ex.1 in Civil Misc. Application No.807 of 1999 is hereby quashed and set aside. For withdrawal of the principal amount the respondent Finance Company may apply before the trial Court.

Civil Application No.288 of 2000 is disposed of in terms of the order passed in main Appeal.

sd/-

Date : November 06, 2001 (B.J.Shethna, J.)

sas